

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JESUS AMAYA, CESAR REYES, FREDY LOPEZ
MONDRAGON, CARLOS GARCIA, FIDENCIO DIAZ,
LUCINO GALINDO CANO, MELVIN VIGIL MESIA,
EDWIN BELECELA, and CRISTIAN FUENTES,
individually and on behalf of all others similarly situated,

**~~PROPOSED~~ DEFAULT
JUDGMENT**

Plaintiffs,

21-cv-06378 (LGS)

-against-

BUILDSMART LLC, and BERNARDO DAL POZZOLO,
and BERNARDO SANTOS XAVIER, as individuals,

Defendants.
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This action was commenced by the filing of the Summons and Complaint on July 27, 2021 (ECF Dkt. No. 1, *see* **Exhibit A**). Copies of the Summons and Complaint was served by personal delivery on Defendants as follows:

1. On August 12, 2021, defendant Buildsmart LLC was served with true and correct copies of the Summons and Complaint at 244 5TH Avenue Q288 New York, New York 10001, the defendant's actual place of business and registered address for accepting service of process, upon Anil Taneja, the defendant's manager authorized to accept service of such documents (ECF Dkt. No. 7, *see* **Exhibit B**).
2. On August 12, 2021, defendant Bernardo Dal Pozzolo was served with true and correct copies of the Summons and Complaint at 244 5TH Avenue Q288 New York, New York 10001, and the aforementioned documents were left with Anil Taneja, the defendant's manager authorized to accept service of such documents (ECF Dkt. No. 8, *see* **Exhibit C**).
3. On August 12, 2021, defendant Bernardo Santos Xavier was served with true and correct copies of the Summons and Complaint at 244 5TH Avenue Q288 New York,

New York 10001, and the aforementioned documents were left with Anil Taneja, the defendant's manager authorized to accept service of such documents (ECF Dkt. No. 9, *see* **Exhibit D**).

4. Defendant Bernardo Dal Pozzolo failed to develop any information that he was in the military upon service of process. Upon information and belief, Defendant Bernardo Dal Pozzolo is not in the military nor dependent upon anyone in the military.
5. Defendant Bernardo Santos Xavier failed to develop any information that he was in the military upon service of process. Upon information and belief, Defendant Bernardo Santos Xavier is not in the military nor dependent upon anyone in the military.
6. Upon information and belief, Defendant Bernardo Dal Pozzolo is not an infant nor incompetent; Bernardo Dal Pozzolo is the adult, competent owner of the Defendant corporate entity sued within.
7. Upon information and belief, Defendant Bernardo Santos Xavier is not an infant nor incompetent; Bernardo Santos Xavier is the adult, competent owner of the Defendant corporate entity sued within.
8. According to the Affidavits of Service filed on the docket in this matter, the Defendants, Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals – served on August 12, 2021 – were required to appear, retain counsel, interpose an answer, or otherwise move with respect to Plaintiffs' complaint by September 2, 2021, and to date, have not done so.
9. On December 29, 2021, Plaintiffs filed their request for Certificates of Default to be entered as against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, and the Default of all the Defendants was duly entered on the

docket by the Clerk of Court on December 29, 2021 (ECF Dkt. Nos. 33; 34; 35, *see Exhibit E*).

10. At no time since issuance of the above-referenced Certificates have any of the Defendants appeared on this matter, nor have the Defendants retained counsel to appear, respond, or defend on their behalf.

11. The time for all Defendants to appear or defend in this matter or retain counsel to do so on Defendants' behalf has expired, and Defendants have not requested an extension of time to do so, or otherwise indicated any desire to appear or defend in this matter.

12. Defendant Buildsmart LLC has been properly served, and is aware of the Complaint in this matter, and of this pending litigation against it, and has failed to appear, defend in this matter, or retain counsel to defend on its behalf.

13. Bernardo Dal Pozzolo, as an individual, has been properly served, is aware of the Complaint in this matter and of this pending litigation against him, and has failed to appear, defend in this matter, or retain counsel to defend on his behalf.

14. Bernardo Santos Xavier, as an individual, has been properly served, is aware of the Complaint in this matter and of this pending litigation against him, and has failed to appear, defend in this matter, or retain counsel to defend on his behalf.

~~15. Accordingly, it is hereby:~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Jesus Amaya has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount of \$21,851.43 plus statutory post-judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until judgment is paid in full; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Cesar Reyes has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount of \$20,457.14 plus statutory post-judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until judgment is paid in full; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Fredy Lopez Mondragon has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount of \$17,842.86 plus statutory post judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until judgment is paid in full; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Carlos Garcia has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount of \$22,025.71 plus statutory post judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until judgment is paid in full; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Fidencio Diaz has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount of \$34,051.43 plus statutory post judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until judgment is paid in full; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Lucino Galindo Cano has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount of \$19,568.00 plus statutory post judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until judgment is paid in full; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Melvin Vigil Mesia has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount of \$18,365.71 plus statutory post judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until judgment is paid in full; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Edwin Beleccla has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount of \$32,878.43 plus statutory post judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until judgment is paid in full; and it is~~

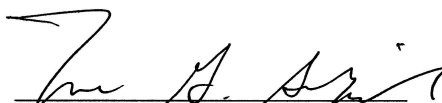
~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff Cristian Fuentes has a judgment against Buildsmart LLC, and Bernardo Dal Pozzolo, and Bernardo Santos Xavier, as individuals, in the liquidated amount \$30,687.14 plus statutory post judgment interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment until the judgment is paid in full.~~

WHEREAS, the Order at Dkt. No. 39, scheduled a show cause hearing for February 16, 2022;
WHEREAS, the Order at Dkt. No. 42, rescheduled the show cause hearing to February 23, 2022;
WHEREAS, Defendants were served with the order to show cause and the subsequent rescheduling order;
WHEREAS, on February 23, 2022, Defendants failed to appear at the hearing. It is hereby

ORDERED that judgment is entered in favor of Plaintiffs and against Defendants Buildsmart LLC, Bernardo Dal Pozzolo and Bernardo Santos Xavier. An order referring the case for an inquest on damages will issue separately.

So Ordered.

Dated: February 24, 2022
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE